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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/202,070 12/08/98 WADAKA

S 2565-136P

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MM91/0416

EXAMINER

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BUDD, M

ART UNIT	PAPER NUMBER
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2834

17

DATE MAILED:

04/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.	202070	Applicant(s)	Wadaka et al
Examiner	M. Budd	Group Art Unit	8834

---The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address---

### Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

Responsive to communication(s) filed on 3-3-01.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

### Disposition of Claims

Claim(s) 1-15 and 25-40 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-15 and 25-40 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - All
  - Some\*
  - None of the CERTIFIED copies of the priority documents have been
  - received.
  - received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

### Attachment(s)

- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of References Cited, PTO-892
- Notice of Informal Patent Application, PTO-152
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Other \_\_\_\_\_

## Office Action Summary

Art Unit: 2834

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-15 rejected under 35 U.S.C. 102(a) as being anticipated by Vale, Krishnaswamy, Carson or Curran.

Each of Vale (figs. 1&2), Krishnaswamy (figs. 1-5&7), Carson (fig 1-5) and Curran (fig. 8) teach the structure claimed. Note that "a shape---dependent on---" is not structurally discerning in the final product. It must be assumed that any final structure was at some point dependent on how it was applied. However, the finished product must rely on its final, set structure for its patentability.

Claim 40 is rejected under 35 U.S.C. 102(a) as being clearly anticipated by Berlin Court.

Claims 26-39 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are vague and indefinite. Note that the first two lines of claim 26 do not read clearly; "Made of one of a plurality---". What structure (e.g. which figure of the drawings) is this supplied to define?

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2834

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-39 (as understood) rejected under 35 U.S.C. 103(a) as being unpatentable over Carson, Krishnaswamy or Vale in view of Curran..

Each of Carson, Vale and Krishnaswamy teach the claimed device except the electrode areas are not explicitly varied. However, they all show plural resonator on a common substrate with each resonator having a different frequency. Curran (note col. 4 lines 4-62) explicitly teaches frequency can be set or tuned via changing electrode area (or overlap). This is an alternative to changing resonator thickness. Also lead line length and area (as well as electrode area) also effects impedance in a known, predictable manner. Thus, to vary the electrode and/or lead architecture of Krishnaswamy, Carson or Vale would have been obvious to one of ordinary skill in the art.

Budd/tr

4-12-01

MARK O. BUDD  
PRIMARY EXAMINER  
ART UNIT 212